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DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Parts 172 and 173

[Docket No. PHMSA-2018-0025 (HM-264); Notice No. 2019-14]

RIN 2137-AF40

Hazardous Materials: Liquefied Natural Gas by Rail; Extension of Comment Period

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA),
Department of Transportation (DOT).

ACTION: Proposed rule; Extension of comment period.

SUMMARY: On October 24, 2019, PHMSA published a notice of proposed rulemaking (NPRM), entitled “Hazardous Materials: Liquefied Natural Gas by Rail (HM-264)” proposing changes to the Hazardous Materials Regulations to allow for the bulk transport of Methane, refrigerated liquid, commonly known as liquefied natural gas (LNG), in rail tank cars. In response to a request for an extension of the comment period from the Offices of the Attorneys General of New York and Maryland, PHMSA is extending the comment period for the HM-264 NPRM for an additional 21 days. Comments to the HM-264 NPRM will now be due January 13, 2020.

DATES: Comments should be received on or before January 13, 2020. To the extent possible, PHMSA will consider late-filed comments.

ADDRESSES: Comments should reference Docket No. PHMSA-2018-0025 and may be submitted in the following ways:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Fax:* 1-202-493-2251.
- *Mail:* Docket Management System; U.S. Department of Transportation, West Building, Ground Floor, Room W12–140, Routing Symbol M–30, 1200 New Jersey Avenue, SE, Washington, DC 20590.
- *Hand Delivery:* To the Docket Management System; Room W12–140 on the ground floor of the West Building, 1200 New Jersey Avenue, SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Instructions: All submissions must include the agency name and Docket Number (PHMSA-2018-0025) for this notice at the beginning of the comment. To avoid duplication, please use only one of these four methods. All comments received will be posted without change to the Federal Docket Management System (FDMS) and will include any personal information you provide. If sent by mail, comments must be submitted in duplicate. Persons wishing to receive confirmation of receipt of their comments must include a self-addressed stamped postcard.

Docket: For access to the dockets to read associated documents or comments received, go to <http://www.regulations.gov> or DOT’s Docket Operations Office (see **ADDRESSES**).

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its process. DOT posts these comments, without change, including any personal information the commenter provides, to

<http://www.regulations.gov>, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <http://www.dot.gov/privacy>.

Confidential Business Information: Confidential Business Information (CBI) is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as “PROPIN.” PHMSA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Michael Ciccarone, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590-0001. Any commentary that PHMSA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

FOR FURTHER INFORMATION CONTACT: Michael Ciccarone, Standards and Rulemaking Division, (202) 366-8553, Pipeline and Hazardous Materials Safety Administration, or Mark Maday, Federal Railroad Administration, (202) 366-2535, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590-0001.

SUPPLEMENTARY INFORMATION:

I. Background

PHMSA, in consultation with the Federal Railroad Administration (FRA), published the HM-264 NPRM¹ on October 24, 2019, in response to a petition for rulemaking from the Association of American Railroads and an internal review of existing regulations. The NPRM proposed to authorize DOT-113C120W tank cars for use in the transportation of LNG by rail, requesting public comment by December 23, 2019.

On December 5, 2019, PHMSA granted a U.S. Department of Transportation Special Permit² (DOT-SP) to Energy Transport Solutions, LLC (ETS) authorizing transportation of LNG in DOT-113C120 tank cars between Wyalusing, PA and Gibbstown, NJ, with no intermediate stops, subject to certain operational controls. PHMSA issued DOT-SP 20534 after having completed extensive analysis in response to the request for special permit received from ETS in August 2017.

The special permit, as issued, includes certain operational controls that were not included in the HM-264 NPRM. PHMSA did not propose operational controls in the HM-264 NPRM. However, in the NPRM, PHMSA invited comment on whether PHMSA and FRA should rely on existing regulations and industry standards, or if additional operational controls may be warranted based on an assessment of risk. PHMSA encouraged commenters to provide data on the safety or economic impacts associated with any suggested operational controls, including analysis of the safety justification or cost impact of implementing the operational controls.

¹ See *Hazardous Materials: Liquefied Natural Gas by Rail NPRM* [84 FR 56964] at <https://www.federalregister.gov/documents/2019/10/24/2019-22949/hazardous-materials-liquefied-natural-gas-by-rail>

² See DOT-SP 20534 at <https://www.regulations.gov/document?D=PHMSA-2019-0100-3006>

PHMSA recognized that the subject matter overlapped between the NPRM and special permit. Therefore, PHMSA published a notice³ in the *Federal Register* on December 11, 2019, to inform the public that DOT-SP 20534 and documents supporting the special permit decision were being added to the docket for the HM-264 NPRM for consideration by the public. PHMSA invited comments on these operational controls to be submitted to the rulemaking docket (Docket No. PHMSA-2018-0025) by December 23, 2019. We noted our intent to consider any additional comments on the operational controls included in the special permit that are filed in the rulemaking docket to aid in determining what, if any, operational controls may be appropriate for inclusion in the HM-264 final rule.

II. Comment Period Extension

PHMSA initially provided a 60-day comment period for the HM-264 NPRM, which expires on December 23, 2019. In response to a request to extend the comment period an additional 30 days from the Offices of the Attorneys General of New York and Maryland, PHMSA is extending the comment period an additional 21 days. The comment period will now close on January 13, 2020. This extension provides the public with 32 days⁴ to review relevant aspects of the special permit, and should provide adequate opportunity for the public to submit additional comments, if necessary.

³ See *Hazardous Materials: Notice of Issuance of Special Permit Regarding Liquefied Natural Gas* [84 FR 67768] at <https://www.federalregister.gov/documents/2019/12/11/2019-26614/hazardous-materials-notice-of-issuance-of-special-permit-regarding-liquefied-natural-gas>

⁴ Thirty days from December 11, 2019, would be January 11, 2020, which is a Saturday, therefore PHMSA decided to extend the comment period to the following Monday, January 13, 2020.

Issued in Washington, DC, on December 18, 2019, under authority delegated in
49 CFR part 1.97.

William S. Schoonover,

Associate Administrator of Hazardous Materials Safety,
Pipeline and Hazardous Materials Safety Administration.

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